

## **EXHIBIT B**

2004 WL 3257090

Only the Westlaw citation is currently available.

United States District Court,  
S.D. Ohio, Eastern Division.

Phillip C. KULINSKI, Jr., on behalf of himself  
and all others similarly situated Plaintiff,

v.

AMERICAN ELECTRIC POWER  
COMPANY, INC. et. al., Defendants.

No. 02-03-412. | July 13, 2004.

#### Attorneys and Law Firms

[John R. Climaco](#), [David M. Cuppage](#), Michael P. Donnelly,  
Climaco Lefkowitz Peca Wilcox & Garofoli LPA, Cleveland,  
OH, [Joseph M. Hegedus](#), OPBA, Dublin, OH, for Plaintiff.

[Alvin James McKenna](#), [Fred G. Pressley, Jr.](#), Porter Wright  
Morris & Arthur, [Brian G. Selden](#), Jones Day, Columbus, OH,  
[George S. Wang](#), [Michael J. Chepiga](#), Simpson Thacher &  
Bartlett LLP, [Daniel Scott Tucker](#), [Trisha L. Lawson](#), [Amelia  
T.R. Starr](#), [Michael P. Carroll](#), Davis Polk & Wardwell, New  
York, NY, [John M. Newman, Jr.](#), Jones, Day, Reavis, &  
Pogue, Cleveland, OH, for Defendants.

#### Opinion

##### Report and Recommendation

[ABEL](#), Magistrate J.

\*1 On March 30, 2004 this Court consolidated the above  
captioned case with the consolidated securities litigation

styled *The Albert Fadem, Trust, et al. v. American Electric  
Power, Co., et al.*, Case No. C2-02-1045 ("the *Fadem  
Litigation*"). This matter is before the Magistrate Judge on  
defendant Deloitte & Touche, LLP's ("Deloitte & Touche")  
April 29, 2004 unopposed motion to clarify the consolidation  
order (doc. 46).

Defendant Deloitte & Touche argues that it is not required to  
move or plead with respect to the complaint in the *Kulinski*  
litigation because that complaint has been superseded by the  
consolidated amended complaint filed by the lead plaintiff  
appointed in the *Fadem* litigation, which does not name  
Deloitte & Touche as a defendant.

The Magistrate Judge RECOMMENDS that Deloitte &  
Touche's unopposed motion to clarify the consolidation order  
(doc. 46) be GRANTED. The Clerk of Courts is DIRECTED  
to serve this Report and Recommendation to all parties in *The  
Albert Fadem, Trust, et al. v. American Electric Power, Co.,  
et al.*, Case No. C2-02-1045.

If any party objects to this Report and Recommendation,  
that party may within ten (10) days, file and serve on all  
parties a motion for reconsideration by the Court, specifically  
designating this Report and Recommendation, and the part  
thereof in question, as well as the basis for objection thereto.  
*See* 28 U.S.C. § 636(b)(1)(A); Fed.R.Civ.P. 72(b).

The parties are specifically advised that failure to object to  
the Report and Recommendation will result in waiver of the  
right to *de novo* review by the District Judge and waiver of  
the right to appeal the judgment of the District Court. *See*  
[Thomas v. Arn](#), 474 U.S. 140, 150-152, 106 S.Ct. 466, 88  
L.Ed.2d 435 (1985); *United States v. Walters*, 638 F.2d 947  
(6<sup>th</sup> Cir.1981). *See also* [Small v. Secretary of Health and  
Human Services](#), 892 F.2d 15, 16 (2d Cir.1989).

End of Document

© 2012 Thomson Reuters. No claim to original U.S. Government Works.